

NOTICE OF ALLOWANCE

1. Claims 8-13, 15-17 and 19 (renumbered as 2-10 and 1, respectively) are allowed.

Rejoinder of Process Requiring an Allowable Product

2. Claims 8-10 and 19 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 11-18, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on 24 September 2009 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Examiner's Amendment

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Bashir M. Ali on 18 June 2011.

The application has been amended as follows:

Cancel claims 14 and 18.

Claim 15, 1st line, replace "applying" with - -which comprises applying- -.

Claim 16, 1st line, replace "by applying" with - -which comprises applying- -.

Claim 17, 1st and 2nd lines, replace "by applying" with - -which comprises applying- -.

Reasons for Allowance

4. The following is an examiner's statement of reasons for allowance: The instant claims are drawn to a composition comprising a mixture of pyraclostrobin and prohexadione-Ca, as well as methods for using said mixture. Pyraclostrobin is a well-known strobilurin fungicide for use in agriculture (Bartlett et al., Pest Management Science, 2002), and prohexadione-Ca is a plant growth retardant shown to inhibit gibberellin biosynthesis (Rademacher et al., US 5,869,424). Rademacher et al. teaches combining plant growth retardants and inhibitors of ethylene biosynthesis, but does not

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specifically disclose the mixture of pyraclostrobin and prohexadione-Ca. Rademacher et al. teaches substituted oxime-ethers as the inhibitors of ethylene biosynthesis to be combined with plant growth retardants. As noted by applicants, substituted oxime-ethers according to Rademacher et al. are very structurally and biologically different from pyraclostrobin, and thus one of ordinary skill in the art would not have been motivated to replace the substituted oxime-ethers with pyraclostrobin. Also, the declaration by Dr. Brahm, filed 28 October 2010, demonstrates that the efficacy of the combination of pyraclostrobin and prohexadione-Ca to reduce ethylene production is unexpectedly superior when compared to each component alone. According to the declaration, a person skilled in the art would expect the combination of the two active compounds in a treatment to increase the production of ethylene after 22 and 44 hours. However, the declaration shows that the combination of the two active compounds unexpectedly decreased ethylene production after 22 and 44 hours.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan W. Schlientz whose telephone number is 571-

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272-9924. The examiner can normally be reached on 8:30 AM to 5:00 PM, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NWS

/John Pak/
Primary Examiner, Art Unit 1616